

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0602 MVE

Motor Vehicle Excise Tax

For Tax Period: 02/28/94 Through 08/31/98

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Motor Vehicle Excise Tax – Imposition

Authority: IC 9-18-2-1

Taxpayer protests the imposition of the motor vehicle excise tax on his 1994 Ford.

STATEMENT OF FACTS

Taxpayer was an Indiana resident for purposes of the motor vehicle excise tax throughout the assessment period. Taxpayer purchased a 1994 Ford in February 1994. Taxpayer titled and registered the vehicle in Illinois continuously from the purchase date until April 1998. Upon registration in Indiana, taxpayer was assessed the motor vehicle excise tax for the periods February 28, 1994 through August 31, 1998. Taxpayer protests these assessments. Additional facts will be provided below, as necessary.

I. Motor Vehicle Excise Tax – Imposition

DISCUSSION

Pursuant to Indiana Code section 9-18-2-1:

- (a) Within sixty (60) days of becoming an Indiana resident, a person must register all motor vehicles owned by the person that:
 - (1) are subject to the motor vehicle excise tax under IC 6-6-5; and
 - (2) will be operated in Indiana.

Throughout the assessment period, taxpayer maintained a residence in Indiana and filed full-year resident Indiana income tax returns. Taxpayer concedes he was a resident of Indiana, for purposes of the motor vehicle excise tax. However, taxpayer argues he was not required to title and register the 1994 Ford in Indiana because the vehicle was not operated in Indiana.

Taxpayer was employed as an air traffic controller and transferred to a regional representative position in the Chicago area in January 1994. Taxpayer accepted the transfer as it would enable him to easily travel back and forth to Phoenix, Arizona where his father was seriously ill. Taxpayer's wife maintained their home in Indiana while taxpayer lived with a coworker in Illinois. Taxpayer has provided evidence of his address in Illinois throughout the assessment period.

Due to an existing relationship with an Indiana dealer, taxpayer purchased the 1994 Ford from the dealer in Indiana and then took the vehicle to Illinois. Taxpayer has provided evidence of parking permits issued in Illinois throughout the assessment period. Upon purchase of the vehicle, taxpayer's insurance agent did not require taxpayer to adjust his insurance coverage.

Taxpayer claims he did not operate the vehicle in Indiana during the assessment period. As his parents were both ill he spent most of his time in Arizona. When he visited his wife he often incorporated the visit into flights scheduled to see his parents. Due to taxpayer's employment he was able to fly a "round-robin" from Chicago to Phoenix to Indianapolis and then back to Chicago for visits with both his parents and wife. Taxpayer's wife also made frequent visits to Illinois. Taxpayer's wife's vehicle was titled and registered in Indiana throughout the assessment period. Upon the death of taxpayer's mother (February 1998) taxpayer returned to Indiana. Taxpayer registered the 1994 Ford within the allowed sixty day period upon his return.

FINDING

Taxpayer's protest is sustained. Taxpayer has proven to the Department's satisfaction that the 1994 Ford was not operated in Indiana during the assessment period.